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4 The Honorable Barbara J. Rothstein  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

9 IN RE: PHENYLPROPANOLAMINE  
10 (PPA) PRODUCTS LIABILITY  
LITIGATION,

MDL NO. 1407

11  
12 CASE MANAGEMENT ORDER  
NO. 18C REQUIREMENT OF  
13 ALTERNATIVE DISPUTE  
14 RESOLUTION  
15

16 This document relates to all  
17 actions.  
18

19 This case management order replaces and supercedes Case  
20 Management Order ("CMO") No. 18B.  
21

22 I. REQUIREMENT OF ALTERNATIVE DISPUTE RESOLUTION  
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24 Within seven (7) days following inclusion of a case on a  
25 Suggestion of Remand Order by this transferee court, the parties  
26 must decide whether to mediate. Immediately following the seven (7)  
day period, the parties shall inform the Court of their decision  
whether or not to mediate by way of a brief joint submission titled  
"Election Regarding Alternative Dispute Resolution."

1 **II. MEDIATION**

2       Should the parties elect to mediate, the mediation shall be  
3 scheduled no later than one month after inclusion of the case on a  
4 Suggestion of Remand Order. The mediation itself shall take place  
5 no later than 90 days after inclusion of the case on a Suggestion  
6 of Remand Order.

7 **III. SELECTION OF MEDIATORS**

8       The parties shall meet and confer in an attempt to agree upon  
9 a panel of regional mediators, which will include mediators from  
10 the following areas: California, Texas, Western Louisiana, Eastern  
11 Louisiana, the Northeast, the Southeast, and the remainder of the  
12 country. The parties can agree to additional mediators if deemed  
13 necessary. To the extent that the parties cannot agree on certain  
14 mediators, Plaintiffs' Steering Committee and Defendants' Steering  
15 Committee shall provide a list of nominees to Special Master  
16 Francis McGovern, who will assist the parties in reaching resolu-  
17 tion. Each mediation session shall be conducted by one mutually  
18 agreed upon mediator selected from the panel of regional mediators.  
19 The cost of the mediation will be split equally among the mediating  
20 plaintiff(s) and the mediating defendant(s) collectively. The  
21 mediator selected shall be located within the same region as the  
22 transferor court, unless the parties mutually agree otherwise.  
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24 **IV. "MEET AND CONFER"**

25       Should either of the parties decline to mediate the case, the  
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1 parties must participate in, and are responsible for arranging, a  
2 "meet and confer" with Special Master Francis McGovern.<sup>1</sup> The "meet  
3 and confer" shall take place no later than 21 days after the case  
4 is included on a Suggestion of Remand Order. Nothing in this Order  
5 will prevent the parties from agreeing to mediate any additional  
6 cases or groups of cases.

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8 DATED this 1<sup>st</sup> day of October, 2004.

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10 s/ Barbara Jacobs Rothstein  
HONORABLE BARBARA JACOBS ROTHSTEIN  
11 UNITED STATES DISTRICT JUDGE  
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<sup>1</sup>The role of Special Master McGovern is hereby expanded to  
include the duties contemplated by this Case Management Order.